

JUNE 13, 2005

STATE BOARD MEETING

151 WEST STREET, SUITE 200, ANNAPOLIS, MARYLAND 21401

Attendees: Gilles Burger, Chairman  
Joan Beck, Member  
A. Susan Widerman, Member  
Linda Lamone, Administrator  
Ross Goldstein, Deputy Administrator  
Judy Arnold, Assistant Attorney General  
Mark Davis, Assistant Attorney General  
Donna Duncan, Director of Elections Management  
Jared DeMarinis, Director of the Candidacy and Campaign Finance Division  
Terry Harris, Deputy Director of Campaign Finance  
Jan Hejl, Voter Registration Manager  
Tracy Agnew, Voter Registration Coordinator  
Jessica Jordan, Agency Budget Specialist  
Nikki Trella, Election Reform Director  
Jaimie Jacobs, Election Reform Deputy Director  
Mary Dewar, Communications Director  
Paul Aumayr, Voting Systems  
Veronica Brake, Office Secretary for Candidacy and Campaign Finance

Also Present: Barbara Fisher, Election Director, Anne Arundel County, and President of  
MAEO  
Carole Streeting, Election Deputy Director, Anne Arundel County  
Randy Cobena, Project Manager, Saber Consulting, Inc.  
Pat O'Hara, Project Manager, EDS  
David A. Laning, Baltimore County

**DECLARATION OF QUORUM PRESENT**

After establishing the presence of a quorum, Chairman Burger called the meeting to order at 1:45 p.m. Chairman Burger opened the meeting with a statement of thanks, on behalf of the other Board members and himself, to Judy Arnold, Assistant Attorney General, and Pam Woodside, SBE's CIO, for their years of service, as both are retiring from their respective positions this month. Ms. Beck offered her congratulations as well.

**APPROVAL OF MINUTES OF MEETING OF APRIL 26, 2005**

On a motion by Ms. Widerman, seconded by Ms. Beck, the minutes of the April 26, 2005 meeting were approved without further revision.

**ADDITIONS TO THE AGENDA**

There were no additions to the agenda.

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## **ADMINISTRATOR'S UPDATE**

### RETIRING PERSONNEL

Pam Woodside has announced her retirement effective June 14, 2005. Ms. Lamone is working directly with State CIO Ellis Kitchen to get his expertise in recruiting for this position and help with expediting the hiring process. Ms. Lamone extended her thanks to Ms. Woodside for her years of service. Chairman Burger requested that Ms. Lamone keep the Board informed on the search for a new CIO.

This is also Judith Arnold's last meeting. Ms Lamone extended her personal thanks to Ms. Arnold for her hard work and expert advice that have been invaluable to this organization throughout the past few years.

Dorothy (Dopper) Duffield, Election Director for Charles County, and Darlene Anderson, Deputy Election Director for Baltimore County, have also announced their retirements. Their expertise will both be greatly missed in their respective counties. The Board members expressed agreement with Ms. Lamone's sentiments.

### NEW PERSONNEL

Ms. Lamone was pleased to announce that we have hired a new Director for the Candidacy and Campaign Finance Division. Jared DeMarinis started working on June 8<sup>th</sup>.

Veronica Brake also started working on June 8<sup>th</sup> and is assigned to the Candidacy and Campaign Finance Division as an office secretary.

### PERSONNEL PROCEDURES MEMORANDUM

Barbara Spittler prepared and distributed a memorandum for the local election directors that provides information on the steps and required documentation that must be completed in order to recruit a new employee or issue a reclassification for an existing employee.

### MAEO ANNUAL CONFERENCE

Mr. Goldstein, Ms. Trella, Ms. Wagner, Mr. Clark, and Ms. Lamone attended the MAEO Annual Conference in Ocean City.

### *Local Board Members Breakout Session*

The Board Member breakout session covered seven main topics. The first topic was a discussion on acceptable political activity by board members. The discussion identified a wide range of attitudes on what is acceptable and some general confusion about State laws and SBE policies on this topic. Ms. Lamone explained that the law says what a person can not do and there are guidelines on the activities a person can do. Political activities and political contributions of a person's spouse are also included in the guidelines due to the perception to the community. Ms. Duncan noted that political activity guidelines are part of the Biennial Information Binder. Mr. Burger requested that the Board be provided with a copy of the guidelines for review before they are distributed at the next Biennial.

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The next topic focused on substitute board members and whether they should be required to attend all meetings and what role they can play. The recommendation of the group was that substitute members should be encouraged to attend every meeting and are allowed to make motions, but not vote. [See AG letter dated June 15, 2004, on this subject.] Another issue raised was whether a substitute member could vote once he or she is sworn in as a member of the Board of Canvassers. The (incorrect) consensus was that substitute members could vote in their capacity as a member of the Board of Canvassers.

The third topic involved the proper role of the local board counsel. There was a range of methods for managing the board attorneys. However, most members present said that they encouraged their attorney to attend all meetings. Ms. Lamone noted that local board attorneys would like to receive some information automatically from SBE, but some local boards only send information when they feel it is necessary to limit the attorney's billing fees.

The Board Members Breakout Session also discussed the manner in which citizenship is enforced, concerns that MAEO expressed no opinion on SB 444, and advice from the Attorney General's office about what actions the local boards should take if the citizenship box is not checked on the application.

The local board members also discussed provisional voting. Specifically, an Allegany County board member expressed his concern of the perception caused by a county counting and reporting votes cast by partial provisional ballots of voters who live in another county (this issue was also raised with the State Board). The Allegany County board member further explained that a large number of students attending a liberal arts college in Allegany County skewed the county's election statistics because their provisional ballots had to be included in that county's reports, even though it was not considered the students' county of residence.

Local Board Attorneys' Breakout Session

The attorneys' breakout session addressed their need to obtain a direct copy of the legislative tracking chart. The attorneys also recommended that the MAEO legislative committee should poll election directors and SBE staff for input on bills before making decisions on whether MAEO should support or oppose legislation. There was some confusion raised about the election results reporting requirements under a specified bill. Donna Duncan will work with Baltimore City attorney Bill Varga to address these concerns. The attorneys would like to see a change to the Election Law Article as it relates to validating petitions.

Election Directors' and Staff's Breakout Sessions

The election director breakout session focused on the Help America Vote College Program. This program helps recruit college students to serve as election judges. Both students who participated in the program and Election Directors who used their services were very

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positive about the experience. The staff breakout session produced a request for a voter registration procedural manual that is separate from the planned Saber manual.

MDVOTERS Presentation

SBE Voter Registration and Saber Project Team members gave presentations to the entire MAEO body on MDVOTERS Project status, change management, the formation of Committees for project work, and the MDVOTERS web site. A question and answer period followed. The presentation was very well received. Ms. Lamone has tasked the SBE staff with responding to any open issues and questions raised at the conference.

Ms. Fisher added that the MAEO conference was very successful. Ms. Fisher extended her thanks to Ms. Lamone and also to Mr. John Clark and the Saber team for their presentation.

HELP AMERICA VOTE ACT

The FY 05 grant application to assure access for individuals with disabilities was submitted by the application deadline. We received notification that Maryland was awarded \$156,570. This is the last year of funding for this grant, unless Congress appropriates additional funding in future years.

ELECTION JUDGES' MANUAL

SBE awarded the contract to redesign the election judges' manual to BlueWater Agency, an Annapolis-based, MBE graphic art company. With its submitted proposal, BlueWater most clearly responded to the need to reach the adult learner, while producing an efficient resource for training and election day support. The first draft of the content of the manual is due the week of June 13<sup>th</sup>, followed by the manual layout and graphics.

HAVA PARTNERS

In response to a question from Chairman Burger, Ms. Trella explained that HAVA Partners was a vendor interested in providing an online training program for election judges. This would be considered a separate project if pursued by SBE.

IDENTIFYING VOTERS WHO VOTED OR MAY HAVE VOTED MORE THAN ONCE

The staff has received data files from every LBE except Baltimore City and compared the data files. The staff is currently reviewing the lists and removing voters who have the same name and date of birth, but are not the same person. Upon completion, the lists will be distributed to the LBEs for further review. It is anticipated that a report will be presented at the next Board meeting.

VOTER REGISTRATION SYSTEM PROJECT STATUS

The VRS Project is moving at a fast pace. A mock election is planned for the pilot counties on August 16.

The State Board has contracted with InfoSENTRY Services to provide quality assurance,

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risk assessment, and independent validation and verification services in support of the MDVOTERS Project.

VOTING SYSTEM PROJECT STATUS

Phase III

The voting system team has focused on completing the Phase III contract modifications with Diebold Election Systems, Inc. (DESI). The Phase III contract modifications cover the voting system hardware and services for Baltimore City, additional hardware (voting units) for Baltimore, Montgomery, and Prince George's Counties due to increases in their voter registration, and additional services for all 24 jurisdictions. The contract modification included developing the following documents: Implementation Plan, Price Matrix, Contract Modifications, Bill of Materials, and schedule. SBE staff, Ms. Arnold, and Mark Davis have reviewed the documents and provided valuable input.

Baltimore City

Two AccuVote voting units were loaned to Baltimore City for demonstration and voter education events. SBE's voting system team presented a demonstration of the voting units to the staff and answered questions. Also, the voting system team demonstrated the procedures used to open and close the polls with a voting unit at the Baltimore City Board of Elections meeting in May. Some board members and a representative from the Mayor's office voted on the machine during the board meeting. The Mayor's Office representative has requested a demonstration for the Deputy Mayors of Baltimore City. The demonstration is planned for July 6<sup>th</sup>.

The voting system team is preparing for the arrival of new AccuVote voting units for Baltimore City.

Firmware Upgrade

The voting system team has reviewed a NASED Qualified upgrade to the AccuVote-TS firmware, version 4.5.2. Version 4.5.2 provides changes to the voter interface, automatic printing of reports (start-up and end-of-election), and improved audit logging. In May, a new voting unit firmware, version 4.6.2, was certified by NASED. The voting system team has requested an evaluation copy of the AccuVote-TS 4.6.2 firmware. Once this firmware has been evaluated, the voting system team will produce a report comparing the features of 4.5.2 and 4.6.2, so that we can decide which software will be installed on the voting units. Mr. Aumayr provided a brief summary of some of the improvements in the newer version. Magnified print has been increased to 175% of the standard font size and voters would be able to select the magnified ballot option themselves. There is also a high contrast (black and white) screen option. Voters can return to the main instructions from any screen and undervoted contests appear in red on the summary page.

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New Servers

SBE procured and received four new file servers for the statewide voting system. Two of these servers are to be installed at Montgomery County, and the other two are to be installed at Prince George's.

CANDIDACY AND CAMPAIGN FINANCE

Terry Harris and Ruth Maynard have conducted 2 of 9 Candidacy and Campaign Finance training seminars for the local board staff. The training sessions have been scheduled in various county offices throughout the State and will be completed before July 1. Local board staff are being furnished with the necessary materials and software to conduct candidate and campaign finance filing procedures for the 2006 elections. Ms. Harris said that the trainings are going well. Ms. Duncan noted that the 1 ½ inch packet of information focused on consistent, uniform processes statewide. Mr. Goldstein added that the Board's previously passed policy that established a start date for when candidate filing can begin for an upcoming election has helped in planning for changes and preventing the use of outdated forms.

PETITIONS

As previously reported, four statewide referendum petitions were submitted to this office for advance sufficiency determination. May 31, 2005 was the deadline to file 1/3 of the required signatures. No petitions were filed.

E-POLL BOOKS

Democracy Solutions presented their I-Poll Book to a group of State and local election board staff. The I-Poll Book appears to be a very scalable system that can be tailored to meet any needs Maryland seeks to accomplish.

SBE has seen demonstrations of three electronic poll books so far. In response to Mr. Burger's request for a comparison of the three different models, Ms. Lamone said that the request is premature pending a formal procurement. Mr. Goldstein did say that he could provide the Board members with each vendor's website address and a basic description each model's features.

BOARD MEMBERS' FOLDERS

Ms. Lamone noted that each Board member's folder contained a 2006 Election Calendar; a list of legislative amendments; a final tracking chart for Senate and House bills; the Governor's veto messages; and letters from the Attorney General's Office regarding District 37B and compliance with census lines.

**ASSISTANT ATTORNEY GENERAL'S UPDATE**

Ms. Arnold had submitted a written report to the Board for review. The most significant activity since the last Board meeting has been the *Hufnagel* case, which was settled on June

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2, 2005. This case had been consuming a large amount of legal resources. The *Schade* case has been scheduled for trial in April 2006 and discovery is now proceeding. The Attorney General's team, led by Mike Berman, is handling the defense for the Fox administrative challenge to disclose the unredacted SAIC report.

**REGULATIONS**

Ms. Trella presented for final adoption previously proposed regulations that clarify the uniform definition of a vote on a Direct Recording Electronic voting system. Ms. Trella provided a history of the proposed regulation and explained that SBE received public comment on these proposed regulations. The individuals submitting comments generally opposed the proposed regulations on the grounds that it is possible that a vote "selected" by the voter on the voting system may not be the vote "cast" on the voting unit. Mr. Burger made a motion to adopt these regulations as proposed, and Ms. Wideman seconded the motion. The Board unanimously approved the adoption of these regulations as final regulations.

**COMPENSATION FOR CERA CERTIFICATION**

Mr. Goldstein stated that at a prior meeting the issue of compensation for CERA certification had been raised. Specifically, MAEO had requested step increases for employees who have received certification. Staff raised several issues about this proposal, including administrative concerns and whether all employees have equal access to classes. At that meeting, Mr. Burger asked Mr. Goldstein to meet with MAEO representatives and see if a mutually agreeable proposal could be formulated. Mr. Goldstein stated that he met with MAEO, but was unable to come up with an agreed upon solution. Accordingly, Mr. Goldstein stated that it was the staff's recommendation that the request for step increases be denied. Mr. Burger stated that it was his intention that MAEO representatives and SBE staff meet to establish other proposals for compensation for CERA certification - including non-monetary compensation. Ms. Fisher stated that MAEO was only interested in monetary compensation. Ms. Lamone stated that monetary compensation for completing a training program is unprecedented in the State personnel system. Providing such compensation would create inequities between local board employees and all other state employees. Ms. Lamone asserted that such inequities would be very destructive. Mr. Burger reiterated his desire to have staff and MAEO work towards formulating a plan for non-monetary compensation for CERA certification. Ms. Fisher agreed to further discuss the issue.

**OLD BUSINESS**

In response to Ms. Beck's question regarding an error on the board members' attendance list for 2004 board meetings, Ms. Jordan noted that the correction had been made and forwarded to the Governor's office. Ms. Jordan will resend an electronic copy of the revised attendance list to Ms. Beck.

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### **NEW BUSINESS**

There was no new business brought up for discussion.

### **SCHEDULING OF JULY MEETING**

The next meeting of the State Board will be held on Tuesday, July 12, 2005, at 1:30 p.m.

### **ADJOURNMENT**

On a motion by Chairman Burger, seconded by Ms. Widerman, the meeting was adjourned at 2:41 p.m.

### **SUMMARY OF CLOSED SESSION ON APRIL 26, 2005**

The Board met in closed session on April 26, 2005, at approximately 2:45 p.m., to consult with staff and counsel about a petition for declaratory ruling and related pending litigation. The closed session was permitted under State Government Article § 10-508(a)(7) and (8). In the open meeting on April 26<sup>th</sup>, Mr. Burger made a motion to hold a closed session, and Ms. Widerman seconded the motion. Mr. Burger, Ms. Beck, and Ms. Widerman all voted in favor of holding a closed session.

Mr. Burger, Ms. Beck, Ms. Widerman, Ms. Lamone, Ms. Arnold, Mr. Davis, Ms. Harris, and Ms. Trella were present for the closed session. The Board discussed and denied two petitions filed requesting declaratory rulings. Mr. Burger made a motion to deny the petitions, and Ms. Widerman seconded the motion. The motion passed unanimously.

The Board also discussed and approved the proposed agreement concerning individuals being paid by a political party to distribute voter registration applications.

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Gilles W. Burger, Chairman